

# State of South Dakota

## EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

400Q0270

### SENATE BILL NO. 55

Introduced by: The Committee on Agriculture and Natural Resources at the request of the  
Public Utilities Commission

1 FOR AN ACT ENTITLED, An Act to revise the requirements regarding the licensing and  
2 regulation of grain buyers.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-45-1.1 be amended to read as follows:

5 49-45-1.1. Terms used in this chapter mean:

6 (1) "Commission," the Public Utilities Commission;

7 (2) "Grain," grain, grain sorghums, beans, and oil seeds. However, the term does not  
8 include grain that has been cleaned, processed, and specifically identified for an  
9 intended use of planting for reproduction or grain purchased to feed livestock;

10 (3) "Grain buyer," any person who purchases grain for the purpose of reselling the  
11 unprocessed grain or who purchases three hundred thousand dollars worth or more  
12 of grain directly from producers in a calendar year. However, nothing in this chapter  
13 applies to the isolated or occasional resale of grain by a person producer who does  
14 not hold himself or herself out as engaging in the business of reselling grain;

15 (4) "Person," any natural person, firm, corporation, company, limited liability company,



1 partnership, association, joint stock company or the lessee, trustee, or receiver  
2 appointed by any court for any one of the foregoing;

3 (5) "Voluntary credit sale," a sale of grain or seeds pursuant to which the sale price is to  
4 be paid more than thirty days after the delivery or release of the grain for sale,  
5 including those contracts commonly referred to as deferred-payment contracts,  
6 deferred-pricing contracts and price-later contracts; and

7 (6) "Producer," a person engaged in the business of grain production.

8 Section 2. That § 49-45-9 be amended to read as follows:

9 49-45-9. Before any grain buyer license is issued by the commission, the applicant shall file  
10 with the commission a bond conditioned to secure the faithful performance of the applicant's  
11 obligations as a grain buyer and full and unreserved compliance with the laws of this state and  
12 the rules of the commission, relating to the purchase of grain by the grain buyer. The bond is for  
13 the specific purpose of protecting persons selling grain to the grain buyer. However, the bond  
14 may not benefit any person entering into a voluntary credit sale with a grain buyer. Any person  
15 who does business as a grain buyer without a bond is guilty of a Class 1 misdemeanor. Each day  
16 a person conducts the business of a grain buyer without a bond is a separate offense.

17 The amount of the bond for a Class A or Class B grain buyer's license shall be based on a  
18 rolling average of the dollar amount of grain purchased by the applicant in South Dakota during  
19 the last three calendar years. For a new grain buyer, the first year's bond shall be based on  
20 projected purchases. For a grain buyer with less than three years experience as a grain buyer, the  
21 bond shall be based on the average actual purchases made by the grain buyer in all of its  
22 previous years as a grain buyer. The bond applies to all grain purchases for all of the grain  
23 buyer's business locations.

24 The amount of the bond for a Class A grain buyer's license is:

1	Dollar Amount of Grain Purchased	Bond Requirement
2	<\$2,000,000	\$50,000
3	\$2,000,001--\$10,000,000	<del>\$75,000</del> <u>100,000</u>
4	\$10,000,001-- <del>\$50,000,000</del> <u>25,000,000</u>	<del>\$100,000</del> <u>200,000</u>
5	<del>\$50,000,001</del> <u>25,000,001</u> --\$100,000,000	<del>\$200,000</del> <u>350,000</u>
6	<u>60,000,000</u>	
7	> <del>\$100,000,000</del>	<del>\$300,000</del> <u>500,000</u>

8 \$60,000,001--\$100,000,000

9 Bond requirements are increased twenty-five thousand dollars for each additional ten million  
10 dollars in purchases above one hundred million dollars.

11 The amount of the bond for a Class B grain buyer's license is:

12	Dollar Amount of Grain Purchased	Bond Requirement
13	<\$2,000,000	\$50,000
14	\$2,000,001--\$10,000,000	<del>\$75,000</del> <u>100,000</u>

15 The grain buyer may stipulate to a higher bond amount requested by the commission or may  
16 post additional security in another form.

17 Section 3. That § 49-45-15 be repealed.

18 ~~49-45-15. Authorized inspectors employed by the commission or agents of the Department~~  
19 ~~of Public Safety pursuant to § 32-2-7 may place a person under arrest without warrant for a~~  
20 ~~violation of any provision of this chapter which is committed in the presence of the inspector.~~  
21 ~~Any commission inspector or agent having such limited arrest powers is not a law enforcement~~  
22 ~~officer for the purposes of § 23-3-27.~~